



LEGAL REVIEW POLICY BRIEF

To: CYFN Research Team

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From: Helena Tlen

Legal research review of Yukon *Civil Emergency Measures Act* RSY 2002, c34 legislation and Yukon First Nations with and without Self-Government Agreements Policy Brief

Executive Summary

- This is a legal research review and analysis of the *Civil Emergency Measures Act* RSY 2002, c34 (“CEMA”) and its ability to work with Yukon First Nations (“YFN”) with Self-Government Agreements (“SGAs”) and without SGAs.
- COVID-19 has revealed gaps within CEMA and its relationship to YFN.
- CEMA includes municipalities in the legislation, giving them the power to declare states of emergencies.²
- CEMA does not contemplate or include YFN in this legislation or its regulations.
- There are 11 YFN with SGAs³ which includes their Legislative Powers including Emergency Powers.⁴
- The three YFN without SGAs and are governed by the Indian Act RSC, 1985 c.I-5 (“*Indian Act*”) which includes s.81, the ability to create by-laws.⁵
- Recommendation #1 for all YFN: establish a technical joint working group, comprised of representatives from YG and YFN, to develop new territorial emergency legislation that would apply to the Yukon.
- Recommendation #2 for all YFN:
 - with SGAs: If YG and YFN cannot collaborate to create a joint working group to create new territorial emergency legislation, YFNs can create their own legislation under their respective SGAs, and subsequently Memorandum of Understanding (“MOU”) or Agreements with Yukon Government (“YG”) or municipalities outlining roles and responsibilities in an “emergency”.⁶
 - without SGAs: If YG and YFN cannot collaborate to create a joint working group to create new territorial emergency legislation, YFN without SGAs can create by-laws under the Indian Act, and subsequently MOU or Agreements with YG or municipalities outlining roles and responsibilities in an “emergency”.⁷

²CEMA s.7

³The YFN with SGAs are Kluane First Nation; Kwanlin Dün First Nation (“KDFN”); Champagne and Aishihik First Nations (“CAFN”); First Nation of Na-Cho Nyäk Dun (“FNNND”), Teslin Tlingit Council (“TTC”); Vuntut Gwitchin First Nation (“VGFN”); Little Salmon/Carmacks First Nation; Selkirk First Nation; Tr’ondëk Hwëch’in (“TH”); Ta’an Kwäch’än Council; and Carcross/Tagish First Nation (“CTFN”).

⁴See chapter 13 for each SGA.

⁵The YFNs without SGAs are White River First Nation; Ross River Dena Council; and Liard First Nation.

⁶CEMA s.1 An “emergency” as defined by CEMA means “a peacetime disaster or a wartime emergency” and a “peacetime disaster” means a disaster, real or apprehended, resulting from fire, explosion, flood, earthquake, landslide, weather, epidemic, shipping accident, mine accident, transportation accident, electrical power failure, nuclear accident or any other disaster not attributable to enemy attack, sabotage or other hostile action whereby injury or loss is or may be caused to persons or property in the Yukon.

⁷Ibid.

Introduction

This is for use by the CYFN Research Team. This is a legal research review of CEMA and YFN with SGAs and YFN without SGAs.⁸ CEMA includes municipalities in the legislation, not YFN. This gives the eight municipalities the power to declare states of emergencies.⁹ COVID-19 exposed gaps in the legislations regarding YFN declaring states of emergencies. This is new research with little information about First Nations in Canada and emergency legislation in other jurisdictions.

Results and Conclusions

Amending CEMA to include YFN is not the best route for YFN without undermining YFNs authority. CEMA does not have any framework for YFNs, and it actually gives more weight, as it currently is written, to municipalities than it does to YFN. The ability of all YFNs to respond to the urgent needs of their citizens is made more challenging by the YG and the Crown's continued lack of recognition of their governance and decision-making authority. Any new territorial legislation requires all governments to remain accountable through clear legislation.

Recommendation: Establish a technical joint working group, comprised of representatives from the YG and YFN, to develop new territorial emergency legislation that would apply to the Yukon. This legislation would have to ensure that YFN are decision-makers with respect to development and implementation of emergency measures and orders that may apply to their settlement land and citizens.

Recommendation: In the absence of new territorial emergency legislation, YFN with SGAs to create new "emergency act" legislation per ch.13 of the SGA and subsequently create Agreements or MOUs with YG and the appropriate municipalities as required. In the absence of new territorial legislation, the YFN without SGAs may create by-laws per s. 81(1)(a) of the *Indian Act*. These by-laws may address the health of their residents and the prevention of the spread of disease. The YFN may subsequently create Agreements or MOUs with YG and the appropriate municipalities.

Analysis

Yukon

The Yukon utilized its emergency powers and declared a state of emergency during COVID-19 through CEMA. The Yukon also has its own public health legislation, Public Health and Safety Act RSY 2002, c176 ("PHSA"), which sets out extraordinary powers to protect the health of the population when faced with a public health emergency. A "public health emergency" as defined in PHSA is different than an emergency as defined by CEMA. An emergency is not a civil emergency as defined in the PHSA at s. 4.7, "in the absence of a declaration made under [CEMA], a health emergency, a communicable disease emergency or a public health emergency does not constitute an emergency within the meaning of the [CEMA]." CEMA therefore has a broader scope. CEMA also has a Memorandum of Understanding with the *Government of Canada, for Rescue Asset Management*¹⁰ and an MOU with the *Pacific Northwest Emergency Management Agreement*.¹¹

⁸ Also, a special thank you to Daryn Leas for his legal comments and opinions.

⁹ CEMA s.7

¹⁰ *Yukon Search and Rescue Asset Management Memorandum of Agreement*, OIC 1992/094, online: <https://laws.yukon.ca/cms/images/LEGISLATION/SUBORDINATE/1992/1992-0094/1992-0094_1.pdf>

¹¹ *Civil Emergency Measures Act "Pacific Northwest Emergency Management Agreement"* OIC 1995/178, online: <https://laws.yukon.ca/cms/images/LEGISLATION/SUBORDINATE/1995/1995-0178/1995-0178_1.pdf>

CEMA legislation is outdated. It must be repealed and replaced with new legislation. It does not reflect today's governance in the Yukon. There is no reference to YFN governments and their legislative authorities and powers.

The Chief Medical Officer of Health in Yukon (the "CMOH") can decide to declare a public health emergency or use its emergency powers. Emergency powers enable governmental officials to mobilize human resources to help deliver health care and other services. In most jurisdictions, the first step to declare a public health emergency, is to determine that there is an imminent or immediate threat that poses a significant or serious risk to public health. The second is that prompt coordination or special measures are required to mitigate or remedy the threat and protect the population health.¹²

CEMA and the PHSA give the CMOH many powers, subject to conditions.¹³ Not all public health emergencies will lead to the use of extraordinary powers; some emergencies might be preventative, reduced, or eliminated through regular means of action.¹⁴ Public authorities have considerable discretion to act quickly and public health emergency declarations and in most cases any emergency power has a time limit.¹⁵

Legal preparedness is critical to public health preparedness. Legal preparedness is "the creation of laws and legal authorities conferring necessary powers on various levels of government and, in particular, on public health officials".¹⁶ There are divergent interests which YG and YFNs must consider and reconcile in the field of health protection without the threat of judicial oversight. If faced with the threat of future lawsuits, public authorities may be tempted to prioritize the voices of those with higher means and better access to justice, which would be detrimental to the vulnerable populations who are the most affected by the pandemic. Public health standards tend to favour least restrictive alternatives in part because of the importance of individual personal rights and freedoms, but also because the burden of restrictions to these personal rights and freedoms often fall unequally on marginalized or stigmatized populations. The law should not simply confer unfettered powers to public authorities in emergencies which is why YFNs should be creating their own legislation.

Arguably the jurisdiction space negotiated in the SGAs provide a particular challenge that YFN are generally under pressure to create legislation to hold up Indigenous laws and legal traditions. There is a tendency for YFN to utilize the jurisdictional territory outlined in the SGAs through legislation, which mimics federal or territorial legislation. There is benefit from such codification, there is also a danger of simply reproducing law which inherently and historically harms or adversely position YFN.¹⁸ Certain health directions may run contrary to YFNs approach to cultures and traditions. YFN can also look to their language as a legal resource when and if they choose to create laws.¹⁹

¹² Answering In Emergency at 7.

¹³ PHSA s.4.6(4)

¹⁴ Ibid.

¹⁵ Ibid, and see PHSA s. 4.2, during the time of a health emergency, if there is urgent need for health professionals, the Minister can issue temporary authority to practice or perform the type of service identified by the Minister. When using exceptional emergency powers, the state responds with urgency, acting with limited information and little time to ponder its decisions.

¹⁶ Answering In Emergency at 45.

¹⁷ Answering In Emergency at 9-10.

¹⁸ Lindberg, D. "Drawing upon the Wealth of Indigenous Laws in Yukon", *The Northern Review* 50 (2020) at 180 ("Lindberg").

¹⁹ Lindberg at 185.

Vuntut Gwitchin First Nation (VGFN),²⁰ Champagne and Aishihik First Nations (CAFN),²¹ and Teslin Tlingit Council (TTC)²² all declared a state of emergency regarding COVID-19. VGFN declared their state of emergency per their *Community Emergency Act* (Vuntut Gwitchin First Nation).²³ CAFN declared their state of emergency under the authority of their SGA, and TTC cited CEMA.²⁴ TTC also set out a joint advisory with the Village of Teslin.²⁵ The First Nation of Na-cho Nyäk Dun (FNNND) is currently working on their own Emergency Act.²⁶ Kwanlin Dün First Nation (KDFN) implemented an Order in Council and Emergency Directives.²⁷ More recently, and unrelated to COVID-19, Carcross Tagish First Nation (C/TFN) declared a state of emergency for drug-related deaths.²⁸ However, the use of this legislation does have shortcomings. Its application is limited to settlement land, which in itself poses challenges to emergency management. Under current use of section 13.3, more effective emergency management therefore requires coordination amongst jurisdictions where both settlement and non-settlement land are involved.

If YG is creating new territorial emergency legislation it must address two core issues. The new legislation must provide that the development of emergency measures and orders in the Yukon will be done jointly by the affected YFN and YG to ensure that the timing, scope and nature of such measures and orders address the priorities and concerns of the affected YFN. This must be a collaborative process where YG and the affected YFN develop the scope and nature of emergency measures and orders, i.e., curfews, evacuations, or other such measures or orders. It cannot be a consultative process where YG is seeking the views of the YFN with respect to specific measures or orders. The process must be streamlined since such measures and orders may have to be implemented in a short period to deal with any other type of emergency, such as forest fires, floods, landslides, or whatever the deemed emergency may be.

²⁰Re: *New Community Emergency Declaration and Order Related to the COVID-19 Pandemic Pursuant to the Community Emergency Act*, (2021), enacted pursuant to Vuntut Gwitchin First Nation Council Resolution 11122021-#47, online: <vgfn.ca> [https://www.vgfn.ca/covid19/pdf/VGG_RES_EmergencyDeclaration_2021_1a.pdf]

²¹ Champagne and Aishihik First Nations, Notice of CAFN State of Emergency, (2021), online: <https://cafn.ca/notice-of-cafn-state-of-emergency/> ("CAFN Notice").

²² Teslin Tlingit Council, Immediate Notice, "Teslin Tlingit Council Emergency Measures: COVID 19", online: file:///C:/Users/hctlen/Downloads/Important_Notice_Apr_6_20.pdf ("TTC Notice")

²³ *Community Emergency Act (Vuntut Gwitchin First Nation)*, online: <<https://www.vgfn.ca/legislation/community%20emergency%20act.pdf>>

²⁴ CAFN Notice; the Resolution #001 *Shadhäla, Äshèyi yè kwädän (Champagne and Aishihik First Nations) Declaration of Emergency*, 11/November/2021 Champagne and Aishihik First Nations, First Nations Council Meeting, 2021 preamble described their authority to declare a state of emergency if it believes that an emergency exists and that special temporary measure may need to be taken to protect CAFN Citizens pursuant to their inherent right to self-government, authority under their SGA, Constitution, 2017, and Act to Amend the Government Administration Act, 2020; and, TTC Notice

²⁵ Teslin Tlingit Council and Village of Teslin, "Joint Advisory on COVID-19 Outbreak", (2021), online: <<https://cyfn.ca/wp-content/uploads/2021/07/TTC-VOT-Advisory-Letter-June-22-2021-revised-2.pdf>>

²⁶ First Nation of Na-cho Nyak Dun, "Citizen Update Report" (2020), online: <<https://www.nndfn.com/wp-content/uploads/2020/06/PDF-CITIZEN-REPORT-002.pdf>>

²⁷ *Order in Council Title: COVID-19 Emergency Measures*, (2020), Kwanlin Dun First Nation, online: <<https://www.kwanlindun.com/wp-content/uploads/2020/11/KDFN-OIC-Emergency-Directive.pdf>>

²⁸ Crawford, L. "C/TFN declares state of emergency over drug deaths" *Yukon News*, (January 12, 2022), online: <<https://www.yukon-news.com/news/c-tfn-declares-state-of-emergency-over-drug-deaths/>>

The new legislation must also acknowledge that the YFN may enact a law under section 13.3 of their respective SGA and such a law would apply to the YFN settlement land and people on that settlement land. This means that the new legislation must be able to coordinate with a YFN law. If the new territorial legislation is progressive and collaborative, it is possible that YFN would see no value to enact their own emergency laws, but they may enact such a law if the new territorial law does not provide for their involvement in the development and implementation of emergency measures and orders. Such a YFN law would displace the application of the territorial law with respect to that YFN settlement land. However, at this time, it is unclear if such measures and orders under a YFN law could be enforced effectively and efficiently in the absence of an administration of justice agreement, and the interim measures under section 13.6.4 of the SGA may not be an effective means to promote public compliance with that law.

This would not be an ideal situation to deal with an emergency if there was a need for measures and orders to be implemented through a single region separately by a territorial law and a YFN law, if the region included both parcels of settlement land and non-settlement land, unless the two laws are coordinated effectively. This situation would likely be costly, lengthy, and inconvenient. Therefore, it would seem to be that there would be an incentive to ensure that a new territorial law is able to address the concerns and interests of YFN so that they do not feel that they must enact YFN legislation to deal with emergencies. We need to ensure that the new territorial legislation is consistent with section 13.4 of the YFN. Among other issues, a new territorial law would also have to provide that emergency measures and orders can be developed and implemented on a regional basis, not a territorial-wide basis which is the current situation under the existing CEMA legislation. What may work for one YFN or region, may not for another.

In the absence of new territorial emergency legislation, the YFN with SGA are advised to create its own version of an “emergency act” that would include triggers and articulate resource management in emergency and how any emergency programs and services can or will be delivered. Creating new legislation may improve communication and information sharing. Any future funding models will need to be negotiated. Any legislative change needs to clearly consider the overlapping of jurisdiction because of the settlement and non-settlement lands. Creating new legislation would mean the contemplation of the triggers and thresholds of the new legislation and how it may relate to Yukon legislation. The YFN without SGAs may create by-laws per s. 81(1)(a) of the *Indian Act*. These by-laws may address the health of their residents and the prevention of the spread of disease. The YFN may subsequently create Agreements or MOUs with YG and the appropriate municipalities.

All YFN should consider creating policy, regulation, and protocols or adjacent committees for emergency situations given the unforeseen consequences of COVID-19, the drug epidemic and increased flooding in the southern lakes region of Yukon. However, the creation of this type of soft law (not binding and designed to guide), still remains subject to judicial review only in a relatively limited set of circumstances, such as where they conflict with legislation or delegated legislation, prevent a decision-maker from exercising a discretionary power or violate Charter rights, but only in situations where the soft law instrument has binding force.

Interjurisdictional comparison: Canada

British Columbia

The BC First Nation Health Authority (“FNHA”) stated that the decision to “close” a First Nations community or reserve, and the assessment of related security needs, rest solely with the authorities of each First Nation and that these decisions should be informed through collaborative conversations with local Health Directors, FNHA’s Office of the Chief Medical Officer, BC’s Provincial Health Officer, and/or the Chief Medical Health Officer or Medical Health Officers of their regional health authority.²⁹

The Heiltsuk Nation of Bella Bella, BC created disease emergency by-laws in s.81(1)(a) of the *Indian Act* which authorize strong preventative actions to help maintain the health and safety of their citizens.³⁰ At least for the foreseeable future, First Nations may continue to govern in accordance with the *Indian Act* and address their citizens’ needs during the COVID-19 pandemic without fear of penalty.³¹

The Tahltan Central Government and BC entered into the first consent-based decision-making agreement.³² This agreement, while not related to emergencies, may act as a blueprint for future agreements setting out a process for joint participation. This agreement is an important reminder that First Nations peoples longstanding efforts to protect and manage their territories can yield tangible results, including agreements based on recognition for Indigenous law-making authority.³³

A potential policy template provided by the FNHA is a Communicable Disease Emergency Response Plan.³⁴ The document is based on aspects of emergency planning structure for things like natural disasters, emphasizing the unique challenges and approaches specific to communicable diseases and public health. This would address the feedback from the In-Action Reviews, regarding having or creating documents to amend or build new legislation, regulations, MOUs, Agreements or policy.

²⁹British Columbia First Nations Health Authority, First Nation Community Closures and Checkpoints In COVID-19 Pandemic, “A Message from FNHA’s Office of the Chief Medical Officer”, (April 24, 2020), online: <<https://www.fnha.ca/about/news-and-events/news/first-nations-community-closures-and-checkpoints-in-covid-19-pandemic>>

³⁰Heiltsuk Nation, “COVID-19: HTC Enacts Heiltsuk Disease Emergency By-law” (April 2, 2020), online: <<https://heiltsuknation.ca/covid-19-htc-enacts-heiltsuk-disease-emergency-by-law/>>; and, The Heiltsuk Indian Band, by-law 21, online: <<https://heiltsuknation.ca/wp-content/uploads/2020/04/2020-03-31-Disease-Emergency-Bylaw.pdf>>

³¹ There have been issues with First Nations under the Indian Act regarding elections provisions see *Bertrand v. Acho Dene Koe First Nation*, 2021 FC 287 (CanLII).

³²BC Tahltan News Release and Declaration Act Consent Decision Making Agreement for Eskay Creek Project, (2022), online: <<https://tahltan.org/declaration-act-consent-decision-making-agreement-for-eskay-creek-project/>>

³³BC Tahltan News Release

³⁴British Columbia First Nations Health Authority, An FNHA plan to fight disease with emergency management, (January 15, 2021), online: <<https://www.fnha.ca/about/news-and-events/news/an-fnha-plan-to-fight-disease-with-emergency-management>>

In 2019, BC passed the *Declaration on the Rights of Indigenous Peoples Act (Declaration Act)* SBC 2019 c.44, setting out a framework to implement the *United Nations Declaration on the Rights of Indigenous Peoples* (“UNDRIP”).³⁵ Courts have been clear that where Indigenous Peoples’ constitutionally protected rights are at stake, the best course of action for governments is to seek the consent of the affected Indigenous group before authorizing resource development on Indigenous lands.

Saskatchewan

In northern Saskatchewan, there was a collaborative approach across jurisdictional boundaries, which incorporated public health response measures that recognized and respected the culture and sovereignty of local Indigenous Peoples. The distinguishing feature of the response was meaningful and consistent engagement of community leaders as partners in decision-making and communicating and educating in both English and Indigenous languages.³⁶ There was not a singular method to containment; rather, the pandemic response was based on individual needs of communities that were identified and nurtured through ongoing dialogue with community leadership and community members.³⁷

Other

Truth and Reconciliation Commission of Canada: Calls to Action include a call for the federal government to rectify the health care delivery system in consultation and cooperation with Indigenous Peoples “to establish measurable goals to identify and close the gaps in health outcomes between Indigenous and non-Indigenous communities”.³⁸ These measures are critical and urgently required to ensure the immediate health, safety and well-being of Indigenous communities. To ensure their effectiveness, these measures must be developed in collaboration with Indigenous governments to ensure that the measures, and the resources provided for their implementation, meet the actual needs of community members.

Interjurisdictional comparison: International examples

Australia

The COVID-19 public health measures have incorporated Indigenous communities’ unique needs through community involvement in the establishment of the public health measures by convening the Aboriginal and Torres Strait Islander Advisory Group on COVID-19.³⁹

³⁵Government of British Columbia, “Declaration on the Rights on Indigenous Peoples Act”, online: <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples>; and *United Nations Declaration on the Rights of Indigenous Peoples*, GA res 61/295, UNGA, 2 October 2007

³⁶Khaketla, et al, “Community and Public Health Responses to a COVID-19 Outbreak in North-west Saskatchewan: Challenges, Successes, and Lessons Learned” (2022) 17:1 *International Journal of Indigenous Health* at 84 (“Khaketla”).

³⁷Khaketla at 82.

³⁸Truth and Reconciliation Commission of Canada, “Truth and Reconciliation Commission of Canada: Calls to Action,” Exhibits, online: <<https://exhibits.library.utoronto.ca/items/show/2420#:~:text=Citation,%2Fitems%2Fshow%2F2420>>

³⁹Crooks, Casey & Ward, “First Nations people leading the way in COVID-19 pandemic planning, response and management” *Med J Aust.* 2020 Aug;213(4):151-152.e1., online: <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7404903/>>

New Zealand (“Aotearoa”)

In November 2016, Aotearoa created the Waitangi Tribunal Health Services and Outcomes Inquiry (the “Inquiry”). From October to December 2018, stage one of the Inquiry investigated the legislative and policy framework of the primary health care system. It found that the Crown has breached the Te Tiriti o Waitangi (“Treaty of Waitangi”) by failing to design and administer the current primary health care system to actively address persistent Maori health inequities. The Crown failed to ensure that Maori have adequate decision-making authority and influence when it comes to designing and delivering primary health care services. The Crown also failed to properly resource and support Māori-controlled public health offices and health providers to deliver quality health care to Māori communities.⁴⁰

When the COVID-19 pandemic hit, the Maori established a National Māori Pandemic response group ‘Te Roopu Whakakaupapa Urutā’ (“Te Roopu”), consisting of Māori health experts. Te Roopu challenged the Crown to ensure that their rights, guaranteed by the Treaty of Waitangi, were maintained in the government responses to COVID-19. Te Roopu also asserted their rights were derived from UNDRIP and other international human rights instruments. There is the need for culturally determined provision of health services and testing by Māori. It was noted that the Māori determined what was required in their own contexts for the wellbeing of their people.⁴¹

Te Roopu has identified three key issues to be addressed if there was an increase of cases. One, Crown to stop its ‘one size fits all’ model and to ensure that specific Māori needs are addressed. Two, make systemic and structural changes within the health system that mitigate against existing inequities and institutional racism that underpin many Māori disparities in health. Finally, for government collaboration with Māori that deals with wider systemic issues such as poverty, housing and wider economic issues that are faced disproportionately by Māori.⁴² The actions of Te Roopu were critical to ensuring the wellbeing of Māori throughout the pandemic.

⁴⁰ Waitangi Tribunal, “Report on stage one of health services and outcomes released”, (2020), online: <https://waitangitribunal.govt.nz/news/report-on-stage-one-of-health-services-and-outcomes-released/>

⁴¹ Pihama & Lipsham, “Noho Haumarū: Reflecting on Māori approaches to staying safe during Covid-19 in Aotearoa (New Zealand)” (2020) 9:1 Journal of Indigenous Social Development UofC at 95.

⁴² Ibid at 97.

RESOURCES

Legislation:

Carcross/Tagish First Nation Self-Government Agreement, (2006), online: <ctfn.ca>. [<https://www.ctfn.ca/media/documents/Publications/Agreements/carcross-tagish-selfGovernmentAgreement.pdf>]

Champagne and Aishihik First Nation Self-Government Agreement, (1993), online: <cafn.ca> [<https://www.rcaanc-cirnac.gc.ca/eng/1100100030683/1542814672049>].

Resolution #001 *Shadhäla, Äshèyi yè kwädän (Champagne and Aishihik First Nations) Declaration of Emergency*, 11/November/2021 Champagne and Aishihik First Nations, First Nations Council Meeting, 2021

Civil Emergency Measures Act, RSY 2002, c34

Civil Emergency Measures Act “Pacific Northwest Emergency Management Agreement” OIC 1995/178, online: <https://laws.yukon.ca/cms/images/LEGISLATION/SUBORDINATE/1995/1995-0178/1995-0178_1.pdf>

Community Emergency Act (Vuntut Gwitchin First Nation), online: <<https://www.vgfn.ca/legislation/community%20emergency%20act.pdf>>

Constitution Act, 1867

Declaration Act Consent Decision Making Agreement for Eskay Creek Project, (2022), online: <<https://tahltan.org/declaration-act-consent-decision-making-agreement-for-eskay-creek-project/>>

Declaration on the Rights of Indigenous Peoples Act (Declaration Act) SBC 2019 c.44, *Emergencies Act*, RSC 1985, c.22 (4th Supp)

First Nation of Na-Cho Nyak Dun Self-Government Agreement, (1993), online: <nndfn.com> [<https://www.nndfn.com/wp-content/uploads/2021/11/nacho-nyak-dun-sga.pdf>].

Indian Act RSC, 1985 c.I-5

Kluane First Nation Self-Government Agreement, (2003), online: <kfn.ca> [<https://www.rcaanc-cirnac.gc.ca/eng/1100100030696/1542815471369>].

Kwanlin Dun First Nation Self-Government Agreement, (2005) <kwanlindun.com> [<https://www.kwanlindun.com/wp-content/uploads/2020/05/KDFN-Self-Government-Agreement.pdf>].

Little Salmon/Carmacks First Nation Self-Government Agreement, (1997), online: <lscfn.ca> [<https://www.lscfn.ca/downloads/lscfn-self-government-agreement.pdf>].

Order in Council Title: COVID-19 Emergency Measures, (2020), Kwanlin Dun First Nation, online: <<https://www.kwanlindun.com/wp-content/uploads/2020/11/KDFN-OIC-Emergency-Directive.pdf>>

New Community Emergency Declaration and Order Related to the COVID-19 Pandemic Pursuant to the Community Emergency Act, (2021), enacted pursuant to Vuntut Gwitchin First Nation Council Resolution 11122021-#47, online: <vgfn.ca> [https://www.vgfn.ca/covid-19/pdf/VGG_RES_EmergencyDeclaration_2021_1a.pdf]

Public Health and Safety Act RSY 2002, c176

Selkirk First Nation Self-Government Agreement, (1997), online: <selkirkfn.com> [<http://www.selkirkfn.com/documents/sfn-agreements/>].

Ta'an Kwäch'än Council Self-Government Agreement, (2002), online: <taan.ca> [<https://taan.ca/files/uploads/2014/07/WEB-01-AGREEMENT-SelfGovernment.pdf>].

Teslin Tlingit Council Self-Government Agreement, (1993), online: <ttc-teslin.com> [https://www.ttc-teslin.com/application/files/7315/3548/2006/Self-Government_Agreement.pdf].

The Heiltsuk Indian Band, by-law 21, online: <<https://heiltsuknation.ca/wp-content/uploads/2020/04/2020-03-31-Disease-Emergency-Bylaw.pdf>>

Tr'ondëk Hwëch'in Self-Government Agreement, (1998), online: <trondek.ca> [https://www.trondek.ca/sites/default/files/basic_page_files/TH_Self_Government_Agreement.pdf].

Vuntut Gwitchin First Nation Self-Government Agreement, (1993), online: <vgfn.ca> [<http://www.vgfn.ca/vgfnfa/>].

Yukon Search and Rescue Asset Management Memorandum of Agreement, OIC 1992/094, online: https://laws.yukon.ca/cms/images/LEGISLATION/SUBORDINATE/1992/1992-0094/1992-0094_1.pdf

Jurisprudence:

Taylor v. Newfoundland and Labrador, 2020 NLSC 125

Bertrand v. Acho Dene Koe First Nation, 2021 FC 287 (CanLII)

International Material:

United Nations Declaration on the Rights of Indigenous Peoples, GA res 61/295, UNGA, 2 October 2007

Secondary Materials:

British Columbia First Nations Health Authority, An FNHA plan to fight disease with emergency management, (January 15, 2021), online: <<https://www.fnha.ca/about/news-and-events/news/an-fnha-plan-to-fight-disease-with-emergency-management>>

British Columbia First Nations Health Authority, First Nation Community Closures and Checkpoints In COVID-19 Pandemic, "A Message from FNHA's Office of the Chief Medical Officer", (April 24, 2020), online: <<https://www.fnha.ca/about/news-and-events/news/first-nations-community-closures-and-checkpoints-in-covid-19-pandemic>>

Champagne and Aishihik First Nations, Notice of CAFN State of Emergency, (2021), online: <https://cafn.ca/notice-of-cafn-state-of-emergency/>

Couture-Menard et al, "Answering In Emergency: The Law and Accountability in Canada's Pandemic Responses" (2021) 72 UNBLJ at 4

Crawford, L. "C/TFN declares state of emergency over drug deaths" *Yukon News*, (January 12, 2022), online: <https://www.yukon-news.com/news/c-tfn-declares-state-of-emergency-over-drug-deaths/>

Crooks, Casey & Ward, "First Nations people leading the way in COVID-19 pandemic planning, response and management" *Med J Aust.* 2020 Aug;213(4):151-152.e1., online: <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7404903/>>

Drawing upon the Wealth of Indigenous Laws in the Yukon by Darcy Lindberg
<https://thenorthernreview.ca/index.php/nr/article/view/883/863>

First Nation of Na-cho Nyak Dun, "Citizen Update Report" (2020), online: <https://www.nndfn.com/wp-content/uploads/2020/06/PDF-CITIZEN-REPORT-002.pdf>

Government of British Columbia, "Declaration on the Rights on Indigenous Peoples Act", online: <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples>

Government of British Columbia, "Tahltan Central Government, B.C. make history under Declaration Act" (June 6, 2022), online: <https://news.gov.bc.ca/releases/2022PREM0034-000899>

Heiltsuk Nation, "COVID-19: HTC Enacts Heiltsuk Disease Emergency By-law" (April 2, 2020), online: <<https://heiltsuknation.ca/covid-19-htc-enacts-heiltsuk-disease-emergency-by-law/>>;

Khaketla, et al, "Community and Public Health Responses to a COVID-19 Outbreak in North-west Saskatchewan: Challenges, Successes, and Lessons Learned" (2022) 17:1 *International Journal of Indigenous Health*

Lindberg, D. "Drawing upon the Wealth of Indigenous Laws in Yukon", *The Northern Review* 50 (2020)

Pihama & Lipsham, “Noho Haumarū: Reflecting on Māori approaches to staying safe during Covid-19 in Aotearoa (New Zealand)” (2020) 9:1 Journal of Indigenous Social Development UofC

Teslin Tlingit Council and Village of Teslin, “Joint Advisory on COVID-19 Outbreak”, (2021), online:
<<https://cyfn.ca/wp-content/uploads/2021/07/TTC-VOT-Advisory-Letter-June-22-2021-revised-2.pdf>>

Teslin Tlingit Council, Immediate Notice, “Teslin Tlingit Council Emergency Measures: COVID 19”, online:
file:///C:/Users/hctlen/Downloads/Important_Notice_Apr_6_20.pdf

Truth and Reconciliation Commission of Canada, “Truth and Reconciliation Commission of Canada: Calls to Action,” *Exhibits*, online:
<<https://exhibits.library.utoronto.ca/items/show/2420#:~:text=Citation,%2Fitems%2Fshow%2F2420>>

Waitangi Tribunal, “Report on stage one of health services and outcomes released”, (2020), online:
<<https://waitangitribunal.govt.nz/news/report-on-stage-one-of-health-services-and-outcomes-released/>>